

subjecting the solution to dialysis against a LiCl solution.

61(withdrawn). The method of making the copolymer in claim 60 where  $R^5$  is  $-OCH_2CH_2OCH_2CH_2OCH_3$  and the polyphosphazene has the formula  $[NP(OCH_2CH_2OCH_2CH_2OCH_3)_x(OC_6H_4SO_2NLiSO_2R_f)_{2-x}]_n$  where  $R_f$  is a  $C_1$ - $C_8$  perfluoroalkyl.

### REMARKS

Reconsideration of this application is respectfully requested.

Claims 1-9 and 36-61 are presently pending in this application. Claims 10-35 previously canceled without prejudice due to an inadvertence in claim numbering have been earlier presented as new claims 36-61. By this amendment, claims 43-46 again are presented for examination.

Claims 1-9, 36-42 and 47-61 stand withdrawn pursuant to restriction requirement, the restriction requirement having been made final.

Claim 43 has been amended to recite that THP is tetrahydropyranl. THP, as described at page 25 of the specification, is tetrahydropyranl. The amendment to claim 43 therefore does not present new matter. In addition, the amendment to claim 43 also does not constitute a narrowing amendment for purposes of patentability. Indeed, the amendment to claim 43 is merely cosmetic in that one of ordinary skill would immediately recognize that THP is tetrahydropyranl as explicitly defined in, such as, page 25 of the specification.

In the office action, claims 43-46 have been rejected under 35 U.S.C. § 35 U.S.C. § 103(a) as obvious over the Hofmann et al. reference entitled " Synthesis of Polyphosphazenes with Sulfonimide Side Groups" cited by examiner in Chem Abstract 137:217352.

In response, applicant notes that the literature reference to Hofmann et al. published on the web on July 17, 2002. The publication date of Hofmann et al. therefore is within one year of the February 13, 2002 priority date of above-identified

application.

In order to expedite prosecution, applicants previously submitted a Declaration under 37 CFR 1.132. The Declaration showed that the cited Hofmann et al. reference is the publication of applicants own invention and that the publication is not that of "another."

As discussed in MPEP 715.01(c), unless it is a statutory bar, a rejection based on a literature reference may be overcome by a showing that the reference was published either by applicant himself/herself or on his/her behalf. The attached Declarations establish that the cited reference is applicant's own work. In this connection, the Declarations show that applicants are the sole inventors and that the other authors of the Hofmann et al. literature reference merely worked under the direction of the applicants. Such Declarations have been found sufficient to remove the Hofmann et al. reference. See *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982). Accordingly, it is respectfully submitted that Hofmann et al. is ineffective as a reference against any of claims 43-46, and should be withdrawn. Claims 43-46 therefore are patentable over Hofmann et al.

The examiner found that the Declaration was insufficient because two of the six inventors did not sign that Declaration. In response, applicants attach hereto a declaration signed by the remaining two inventors. This declaration, together with the previously submitted declaration, establishes that the Hofmann et al. is ineffective as a reference against any of claims 43-46, and should be withdrawn. Claims 43-46 therefore are patentable over Hofmann et al. The present declaration was not previously submitted because the previous declaration clearly referenced the contribution of the declarants of the present declaration.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the forgoing, applicants respectfully submit that the claims are in condition of allowance. Such action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'J. A. Parrish', with a stylized flourish at the end.

John A. Parrish  
Reg. No. 31, 918  
PH: 610-617-8960